LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 6698 **DATE PREPARED:** Mar 30, 2001
BILL NUMBER: HB 1846 **BILL AMENDED:** Mar 29, 2001

SUBJECT: Tax Sales and Redemption from Tax Sales.

FISCAL ANALYST: Bob Sigalow
PHONE NUMBER: 232-9859

FUNDS AFFECTED: **GENERAL**
DEDICATED
FEDERAL

IMPACT: Local

Summary of Legislation: This bill specifies certain information to be included in the tax sale list, tax sale notice, certificate of sale, and tax sale record. It requires pre-sale and post-sale publications in accordance with IC 5-3-1-4. The bill provides that certain notices must be sent to at least one of multiple owners, and that a notice is considered sufficient if the notice is mailed to the correct address.

This bill changes the amount of damages allowed to a holder of a certificate of sale under an incorrect county treasurer guarantee. The bill permits any person to redeem real property sold at tax sale. It also makes certain amendments concerning: (1) the timing of redemption and the amount required to redeem; (2) the timing, mailing, and content of the post-sale notice; and (3) the issuance of tax deeds.

With respect to an invalid tax sale, the bill specifies amounts to be refunded to the purchaser and requires a political subdivision to reimburse the county for interest paid to the tax sale purchaser under certain circumstances. It amends the circumstances under which purchase money is refunded to a tax sale purchaser. This bill also establishes requirements for filing a tax sale surplus disclosure form, and specifies the information to be included on the form.

Effective Date: July 1, 2001.

Explanation of State Expenditures:

Explanation of State Revenues:

Explanation of Local Expenditures: ***Summary*:** Many of the provisions of this bill require additional information to notices and lists. These changes can be made by most counties with minimal administrative cost. Any actual costs would have to be paid from existing resources. Overall, this bill is largely administrative and has a minimal local fiscal impact.

Tax Sale List**:** Under current law, the county auditor is required to maintain a list of real property eligible for tax sale. This bill specifies the details of this list. Under the bill, the tax sale list would have to include parcel numbers and addresses and the name of at least one owner. The bill would also require the county auditor to annually mail a copy of the tax sale list by certified mail to any mortgagee who requests the copy.

The list detail and mailing requirements would ensure that proper notice of tax sale status is given to interested parties. Counties would have slightly increased postage expenses under this provision. Overall, this provision would have a minimal local fiscal impact.

Tax Sale Redemption and Notice**:** A taxpayer may redeem property that has been sold for non-payment of property taxes during the specified redemption period. Under current law, part of the payment amount required for redemption includes taxes paid by the purchaser plus certain expenses incurred by the purchaser plus the amount of the minimum bid multiplied by 110% if redemption is within 6 months of sale, 115% if redemption is within 6 to 12 months of sale, or 125% if redemption is later than 12 months of sale.

This bill would require that before redemption, the expenses included in the redemption amount be certified by the county auditor as paid by the purchaser or by the county. These expenses would no longer include filing fees for a petition for tax deed but would include the cost of a title search.

This bill would also require the county auditor's notice of property eligible for sale to include a description of the items that comprise the redemption amount and a statement that the delinquent owner may have a right to any tax surplus that results if the sale amount is more than the minimum bid.

The county auditor currently must send a notice of tax sale via certified mail to the owner or owners of property to be sold. This bill would require the notice to be sent to only one owner, even if there are multiple owners. The property owner(s) would be responsible for keeping their current address on file with the auditor.

There are several notice and petition procedures and deadlines throughout the tax sale law. Many of these statutes have an alternative date or procedures for Allen, Marion, and St. Joseph Counties and also for any county in which the auditor and treasurer have an agreement that the county auditor prepare the notices and petitions. This bill would delete the references to Allen, Marion, and St. Joseph Counties so only those counties with an agreement would be subject to the alternative dates and procedures. These dates would still apply to Allen, Marion, and St. Joseph Counties as long as the necessary agreement has been reached.

Under current law, the purchaser (or a county under agreement) must send a notice of the sale and expiration of the redemption period to the property owner within 30 days of the end of the redemption period. This bill would instead require the notice to be sent within nine months of the sale date. The bill would add the following required items to the notice: a statement that the delinquent owner may have a right to the tax surplus, if any, the street address of the property, and the parcel number.

Tax Sale Surplus Fund**:** Currently, when property is sold at a tax sale, the purchaser's bid payment is first applied to delinquent and current real property taxes. If additional funds remain, they are applied to any delinquent personal property taxes that the taxpayer may owe. Any surplus remaining after these payments is placed in the Tax Sale Surplus Fund. A claim for the money placed in the fund may be filed by the delinquent taxpayer, by the tax sale purchaser (if the property is redeemed by the delinquent taxpayer), or in some counties by a person with substantial interest in the property. If the money is not claimed within three years of when the payment was made, the money is transferred into the county General Fund and may not be claimed by any party.

This bill would allow the surplus to be claimed only by the owner of record when the deed is issued or the tax sale purchaser (if the property is redeemed by the delinquent taxpayer), but not another party with substantial interest in the property.

This bill would also require a delinquent taxpayer to sign a Tax Sale Surplus Fund disclosure when property that has been sold at tax sale is transferred to another person before a tax sale deed is issued. The form must contain, among other items, the amount of the tax sale bid that was deposited into the Tax Sale Surplus Fund. The county auditor would not be permitted to issue a refund of the amount in the Tax Sale Surplus Fund to the third party unless the person is named on the disclosure form.

The issuance of the notice and requirement for filing the disclosure form could reduce the likelihood that a third party would be eligible to file a claim for refund of the amount in the Tax Sale Surplus Fund without the knowledge of the delinquent taxpayer.

***Certificate of Sale*:** Currently, the county auditor must issue a certificate of sale after a tax sale purchaser pays the bid. Among the several items that must be listed on the certificate is the name of the former owner, if known. This bill would instead require the listing of the name of at least one owner of record at the time of the sale. In addition, the certificate would have to contain the address of the owner of record at the time of sale, the expiration date of the redemption period, the court cause number, and the street address of the property.

***Invalid Sales*:** Under current law, when a certificate of sale is issued, the county treasurer must guarantee that the taxes on the property were delinquent at the time of sale and that the property was eligible for sale. If the guarantee is issued even though the tax was paid, the purchaser may collect double the purchase price plus interest from the county treasurer's official bond. Also, under current law, the county auditor must refund the purchase price plus 6% annual interest to the purchaser if any tax sale is found to be invalid before the deed is executed.

Under this bill, no damages would be allowed against the treasurer's bond. The refund would be equal to the purchase price plus all taxes paid by the purchaser after the sale plus 6% annual interest. A refund could be made only if both the county auditor and the county treasurer find that the sale was invalid before the court orders that the deed be issued.

In addition, the bill requires a political subdivision to reimburse the county for the interest paid if the sale was invalidated because the political subdivision didn't give adequate notice of the lien to the property owners and the lien resulted in the sale. This provision would shift interest expense from the county to the political subdivision in a case where the political subdivision is responsible for the expense.

***Tax Sale Deed*:** Under current law, the purchaser (or a county under agreement upon request of the purchaser) may file a court petition for a tax deed after the redemption period but at least three months after the notice of sale. Under the proposal, the purchaser or county may file the petition after the redemption period but not more than six months after the period ends. The court would then have 61 days to enter an order to issue the deed, provided that all requirements have been met. There is currently no time limit for the court to act.

Current law allows an appeal of the court order to issue a tax sale deed. This bill limits the time in which an appeal may be filed to 60 days.

The county auditor is currently required to maintain a tax sale record containing various information about each property sold. This bill would require the auditor's list to also include the purchaser's mailing address, the minimum bid amount, the amount of tax paid by the purchaser, and the costs certified to the auditor for reimbursement.

Currently, a property owner may initiate an action against a county treasurer, or the treasurer's bond if the owner incurs expenses or damages in a title-related suit. The damages must result from the failure of the county treasurer to properly credit tax payments or because taxes were billed twice. This bill removes the authority for the owner to initiate an action.

Explanation of Local Revenues: Under current law, if a purchaser fails to fulfill all of the requirements needed to issue a tax sale deed, the deed is not issued and in some cases the purchaser may be liable for a penalty equal to 25% of the purchase price. This bill clarifies that the penalty is to be deposited into the county General Fund.

State Agencies Affected: State Board of Accounts.

Local Agencies Affected: County Auditors; County Treasurers; County Courts.

Information Sources: David Bottorff, Association of Indiana Counties (684-3710).